

Minutes
Morganton Board of Adjustment
July 13th, 2015

Members Present:

Patricia Williams, Vice-Chair
George Baily
Bryant Lindsey
Hugh Lowe

Members Absent:

Beth Walker, Chair

Also present from the City staff were Russ Cochran ,Senior Planner, and Jackie Cain, Administrative Manager.

I. OLD BUSINESS:

Item 1: Call to Order

Ms. Williams, Chairman called Board of Adjustment meeting to order.

Item 2: Review and approval of the March 9th, 2015 Minutes.

Mr. Baily made a motion to approve the minutes from March 9th, 2015 meeting, seconded by Mr. Lowe passing unanimously (4-0).

II. NEW BUSINESS:

Item 1: Election of Chair/Vice Chairman

Ms. Williams asked for nominations for chairman for Board of Adjustment.

Mr. Lindsey made a motion to nominate Ms. Walker as chairman, seconded by Mr. Baily and passed unanimously (4-0).

Ms. Williams stated she had spoken with Ms. Walker and she was aware of elections at tonight's meeting and would accept either position if nominated.

Mr. Lindsey made a motion to nominate Ms. Williams as vice-chairman, seconded by Mr. Baily and passed (3-0).

Item 2: Variance request to reduce the amount of rear setback required to build a home at 102 Old Mill Drive, from 25 feet to 15 feet.

(a) Reading of Variance Factors

Ms. Williams stated no matter how well intentioned and no matter how carefully zoning ordinances are prepared, there are many instances in which the real application of the zoning ordinance creates an unusual problem for the landowner and it is our responsibility to try to deal with those unique hardships that are created.

This Board of Adjustment is given **limited discretion** in deciding whether to grant a variance. Under the North Carolina State Law this Board is required to reach three conclusions before it may issue a variance. These are:

1. That there are **practical difficulties** or **unnecessary hardships** in carrying out the strict letter of the ordinance such that the property owner can secure **no reasonable return or make no reasonable use** of the property. Such hardship must result from **unique circumstances** related to the applicant's land and the hardship is **not the result of the applicant's own actions**.
2. That in issuing the variance, it is in **harmony with the general purpose and intent of the ordinance** and preserves its spirit.
3. That in issuing the variance, it **secures the public safety and welfare** and does substantial justice to the community as a whole.

The Board is willing to hear all relevant testimony, but asks that repetitive testimony be kept to a minimum so that the meeting can move forward.

(b) Swearing in persons to give testimony.

Mr. Cochran, Staff member, and Jeff Towery, property owner, were sworn in.

(c) Statement regarding presentation of evidence

Ms. Williams asked Mr. Cochran to review the variance request.

Mr. Cochran stated the property located at 302 Old Mill Drive is owned jointly by Jeff and Sonny Towery (Son-Father). Mr. Cochran stated the property is zoned Low Intensity District (LID). The LID is established primarily for single-family residential uses at a variety of densities depending on location and proximity to transportation corridors and services. It is also the intent of this district to allow for certain types of nonresidential community facilities and services that would be detrimental to the residential character of the district. He stated Mr. Jeff Towery (known hereafter as Mr. Towery) wished to construct new single family dwelling on the property. During process to secure and obtain permitting for construction, revealed the set-backs for this property did not meet his location spot for the dwelling. Mr. Towery had intended on placing the dwelling on the **southeastern** corner of the property. Mr. Cochran directs commission members to the map provided in their package. The map shows the contours of the property and the steepness of this property. Mr. Cochran explains the grade of the lot is at 23%. Mr. Cochran states the setbacks for LID are 30 foot front, 10 foot side and 25 foot rear. Mr. Cochran states Mr. Towery would like to reduce the rear setback to 15 feet.

Mr. Towery stated he chose the southeastern corner of the property because it was the most level spot to build upon.

Mr. Lindsey asked if neighbors had been notified or any objection had been received from neighbors.

Mr. Cochran stated notifications had been sent to adjacent property owners.

Mr. Lindsey questioned the zoning of the property to the rear.

Mr. Cochran stated the property to the rear is in the county jurisdiction and did not fall under city zoning regulations.

Mr. Baily asked the size of the home.

Mr. Towery stated approximately 1950 square feet.

Mr. Baily viewed an aerial map of the property and questioned a visible roadway to the rear of the property on adjacent land.

Mr. Cochran stated the rear property did have a trail created by PNG service vehicles. He stated this was not a roadway access for said property in question.

Mr. Baily questioned the adjacent side property and development.

Mr. Towery stated he and his father owned that property also and did not have development plans at this time.

Mr. Lindsey referred to the drawings provided in commissions package of the proposed residence and commented there would have to be substantial pier footings for the front of the home.

Mr. Towery stated there would be and that a General Contractor would build the home.

Mr. Lindsey made a motion to approve the request for a variance to reduce the rear setback requirement in this case from 25 feet to 15 feet because we find:

- (a) There are unique “practical difficulties” and “unnecessary hardships” in this situation,
- (b) The petitioner’s request will not disrupt the surrounding area or create a situation that is not in harmony with the general purpose and intent of the ordinances, and
- (c) The petitioner’s request will not create public safety problems or injure the public welfare.

seconded by Mr. Lowe and passed unanimously (4-0).

Ms. Williams stated anyone aggrieved by the decision of the board has 30 days to appeal to Superior Court of Burke County.

III. OTHER ITEMS OF DISCUSSION

None

IV. ADJOURN 5:45 p.m. Next Regular Meeting: Thursday August 10th, 2015 at 5:15 PM